

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 84 be amended to read as follows:

- 1           Page 36, between lines 20 and 21, begin a new paragraph and insert:  
2           "SECTION 47. IC 22-4-15-6.1 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.1. **(a)**  
4           Notwithstanding any other provisions of this article, all of the  
5           individual's wage credits established prior to the day upon which the  
6           individual was discharged for gross misconduct in connection with  
7           work are canceled.  
8           **(b) As used in this section, "gross misconduct" ~~includes~~ means any**  
9           **of the following, as determined by the department by a**  
10          **preponderance of the evidence:**  
11            (1) A felony. ~~or~~  
12            (2) A Class A misdemeanor. ~~committed in connection with work~~  
13            ~~but only if the felony or misdemeanor is admitted by the~~  
14            ~~individual or has resulted in a conviction.~~  
15            (3) Working, or reporting for work, in a state of intoxication  
16            caused by the individual's use of alcohol or a controlled  
17            substance (as defined in IC 35-48-1-9).  
18            (4) Battery on another individual while on the employer's  
19            property or during working hours.  
20            (5) Theft or embezzlement.  
21            (6) Fraud.  
22          **(c) An employer:**  
23            (1) has the burden of proving by a preponderance of the  
24            evidence that a discharged employee's conduct was gross

- 1           **misconduct; and**  
2           **(2) may present evidence that the employer filled or**  
3           **maintained the position or job held by the discharged**  
4           **employee after the employee's discharge.**  
5           **(d) It is not a defense under this section that a discharged**  
6           **employee's conduct did not result in:**  
7           **(1) a prosecution for an offense; or**  
8           **(2) a conviction of an offense."**  
9           Renumber all SECTIONS consecutively.  
            (Reference is to ESB 84 as printed April 10, 2009.)

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Representative Leonard